

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN DAVE LEWIS**, on January 20, 2003 at 3:00 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chairman (R)
Rep. Rosalie (Rosie) Buzzas, Vice Chairman (D)
Rep. Edith Clark, Vice Chairman (R)
Rep. John Brueggeman (R)
Rep. Tim Callahan (D)
Rep. Stanley (Stan) Fisher (R)
Rep. Eve Franklin (D)
Rep. Dick Haines (R)
Rep. Donald L. Hedges (R)
Rep. Joey Jayne (D)
Rep. Carol C. Juneau (D)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. John Musgrove (D)
Rep. Jeff Pattison (R)
Rep. Rick Ripley (R)
Rep. John Sinrud (R)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Jon Moe, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note:

These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 225, HB 263, HB 297, 1/17/2003

Executive Action: HB 261, Do Pass 18-1, HB 273
Tabled, HB 219 Tabled

HEARING ON HB 263

Sponsor: REP. DAN FUCHS, HD 15, Billings

Opening Statement by Sponsor:

REP. FUCHS said the whole purpose of HB 263 is to raise the level of debate and discussion about "rainy day" funds. This bill proposes to begin paying ourselves first and putting money away for future fiscal crises. Obviously there was no way to know what would happen after 9-11 nor what would happen to Wall Street and our revenue collections.

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. FUCHS closed the Hearing on HB 263.

EXECUTIVE ACTION ON HB 261

Motion: REP. HAINES moved that HB 261 DO PASS.

Discussion:

Larry Fasbender, Deputy Director, Department of Justice, said he has talked with the Department of Revenue concerning amendments for this. An amendment they are proposing is one that would require the money to go to the General Fund and then the money would be transferred to the State Special Revenue account. He thinks the amendment will require a statutory appropriation to make that happen.

CHAIRMAN LEWIS said this seems to be a technical amendment that can be taken care of now or in the Senate. REP. HAINES said he would rather postpone it to the Senate.

Vote: Motion carried 18-1 with REP. JAYNE voting no on a voice vote.

HEARING ON HB 225

Sponsor: REP. JESSE LASLOVICH, HD 57, Anaconda

Opening Statement by Sponsor:

REP. LASLOVICH passed out Exhibits 1 and 2. He said this bill will establish a Budget Stabilization Fund or a "rainy day" fund. Montana is one of three states that does not have a "rainy day" fund. Exhibit 1 shows how the respective states appropriate money from the fund and how other states deposit money into the fund. The bill is a recommendation from the fiscal staff. The reasoning is to reduce our vulnerability to economic fluctuations.

The amendment addresses the technical concern of the fiscal note. The bill does not increase taxes, reduce spending, nor mandate that the Legislature appropriate a certain amount of money into this "rainy day" fund. The main aspect of it, as far as depositing money into the fund, will come from one-time judgements or settlements that are not otherwise encumbered or dedicated by law to be deposited in a different fund.

EXHIBIT (aph11a01)

EXHIBIT (aph11a02)

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: **Chuck Swysgood, Director, Office of Budget and Program Planning**, referred to the fiscal note, which shows no impact, because it will not be in effect until the end of the biennium but his Department missed the effective date in this bill. The effective date on this bill is effective on passage and approval so if it is taken by the way it is worded, at the end of the biennium, it could have a potential effect on the current biennium's fund balance as it relates to this particular piece of legislation. He apologized to the Sponsor and the Legislature.

Questions from Committee Members and Responses:

REP. HEDGES asked **Mr. Swysgood** what percentage of the revenue coming into the State flows into various trust funds. **Mr. Swysgood** said he will get that information.

CHAIRMAN LEWIS said if the Trust Fund is limited to 5% of biennium General Fund revenue, there would be roughly \$100 million that could be diverted into the Trust Fund before it is

maxed out. **REP. HEDGES** said, "If we're taking half of the General Fund surplus at the end of each biennium, which right now is at \$60 million, then \$30 million, which is a percentage of next year's budget, will be a large amount to set aside."

REP. RIPLEY asked **REP. LASLOVICH** to address the technical note. **REP. LASLOVICH** said that will be addressed with the amendments (Exhibit 2). **CHAIRMAN LEWIS** said technically money cannot be taken from a Trust Fund. The point of the amendment is to clarify that.

REP. SINRUD referred **REP. LASLOVICH** to page 1, lines 23 and 24, item (2) "Depositing proceeds of litigation that come to the state through one-time judgments, awards, or settlements that are not otherwise encumbered or dedicated by law for deposit in a different fund." The Consumer Protection Agency does have lawsuits against businesses for unfair trade practices. Funds are received from those settlements as well as funds to the individuals who have been harmed by the illegal acts of businesses. He asked, "Would those funds be required to go into this Trust?" **REP. LASLOVICH** said he would imagine they would if they are a one-time judgment or settlement.

REP. BUZZAS said the language of the bill says, "Unless those funds are dedicated."

REP. SINRUD said the funds that are received will be dedicated to the consumers but there is also an additional fee or penalty that goes to the State and those are unencumbered. They do go to the General Fund.

REP. WITT asked **REP. LASLOVICH** if there are any other states that have a Coal Trust Fund. **REP. LASLOVICH** said he was not sure of any other states that have a Coal Trust Fund, so the answer would be no. **REP. WITT** asked the Sponsor if he would be interested in an amendment based on the 2/3 vote, that would allow them to go into the Coal Trust as a loan to this bill and build the "purse." **REP. LASLOVICH** said, "No, he would not consider that a friendly amendment. It defeats the purpose of a "rainy day" fund."

Closing by Sponsor:

REP. LASLOVICH closed the Hearing on HB 225.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 29}

EXECUTIVE ACTION ON HB 273

Motion: **REP. BUZZAS** moved that **HB 273 DO PASS.**

Discussion:

REPS. FISHER, PATTISON, WITT, SINRUD asked for further clarification. **CHAIRMAN LEWIS** said it takes money from the General Fund and pays back those counties. There was \$225,000 at issue here and \$140,000 has been paid in. Some counties paid all, some a little, then some of them quit paying. There is about \$90,000 that hasn't been paid. The proposal in the bill is to give everybody back their money. **REP. HEDGES** said the issue is the \$225,000 and it does not include those counties that have paid in full. This is a "forgiveness" of only those who didn't pay.

Jon Moe, Legislative Staffer, said the difference between the 14% and 9% is, if the counties had paid it, they were going to get reimbursed. If they had not paid it, they were going to be "forgiven".

Substitute Motion: **REP. HAINES** made a substitute motion that **HB 273 BE AMENDED to remove the word "appropriated" and replace it with "remove" on line 18, page 1. On line 19 scratch the "General Fund" and replace it with "Appropriations" for FY 2004.**

REP. JAYNE asked, "Where is the money?" **REP. HAINES** said the staff of the agency will determine where the money is.

REPS. HEDGES, BUZZAS, CALLAHAN, asked **Pat Gervais, Senior Fiscal Analyst**, for further explanation. **Ms. Gervais** said this is the issue of the county billing and it will provide funding to the Department of Public Health and Human Services, (DPHHS) to reimburse counties that paid the administrative costs in excess of the 9% indirect cost. Her understanding of the bill is the money would go to the Department of Public Health and Human Services who would then reimburse those counties who did actually pay that bill. **CHAIRMAN LEWIS** asked, "Do they write off the debt then for the counties that didn't pay?" **Ms. Gervais** said a sentence in the bill says, "if a county has not paid the administrative fee charged by the Department, then the Department may forego collecting the amount charged to the county in excess of 9%." (lines 21 and 22, page 1)

In response to a question from **REP. WITT** regarding assumed counties, **Ms. Gervais** said the assumed counties paid their 9% mill levy and the State paid all expenditures. So this would only impact those counties that were previously nonassumed. When it was increased to 14%, the nonassumed counties were held at 9%. The mill levy, historically, was always held at the same level. Most of the counties that were nonassumed were experiencing expenditures less than what they would have provided to the State

if they had been assumed, so their contribution was their actual expenditures. The assumed counties became assumed counties because the expenditure level they were experiencing was greater than the mill levy that they had to provide to the State.

REP. FISHER said the words "appropriation" and "allocation" mean they want more money. "Is that not correct?" **Ms. Gervais** said that would be her understanding since the word "appropriated" was used in the original bill draft that their desire is to have the funding appropriated. This was not a Department (DPHHS) requested bill. This bill was requested elsewhere so without a statutory change, the Department (DPHHS) is in the questionable position of whether or not they can forgive the debt for those counties that didn't pay the bill and whether or not statutorily they would be able to provide a refund to those counties that did because they billed it as what they believed was natural expenditure of running the program. Because this is not Department (DPHHS) requested legislation and apparently the party who requested the legislation wants an appropriation, Ms. Gervais is unaware of what the Department's position is.

REP. BUZZAS said if this bill doesn't pass then the counties who have not yet paid are still essentially liable for payment. **Ms. Gervais** said that would be her understanding unless another option would be a statutory change that would allow the Department (DPHHS) to forgive that debt but not provide an appropriation to refund those counties that did pay the bill.

REP. SINRUD referred to the Special Session in August, HB 21 required that all Departments bill for indirect costs. Is this 9% for administrative costs an indirect cost to be billed back to the Federal Government? **Ms. Gervais** said this would have been the counties' share that was used to match Federal Funds so the Department would already have drawn down Federal Matching Funds for this so it has already been matched.

In response to a question from **REP. SINRUD** concerning the reason for going from 9% to 14% for administrative costs, **Ms. Gervais** said it was based upon an increase in expenditures and cost increases in their indirect cost to outpatients.

Vote: Substitute Motion failed 4-15 with **REPS. FISHER, HAINES, SINRUD** and **WITT** voting yes on a roll call vote.

Substitute Motion/Vote: **REP. BRUEGGEMAN** made a substitute motion that **HB 273 BE TABLED**. Substitute motion carried 11-8 with **REPS. BUZZAS, CALLAHAN, FRANKLIN, JAYNE, JUNEAU, KAUFMANN, LINDEEN** and **MUSGROVE** voting no on a roll call vote.

HEARING ON HB 297

Sponsor: REP. DAVE WANZENRIED, HD 68, Missoula

Opening Statement by Sponsor:

REP. WANZENRIED said this bill proposes to establish a "rainy day" fund so that for the first time in this State's history there will be a cushion against inevitable ups and downs in the State's economy and the impact that has on State receipts.

This bill proposes to clarify for the first time, that we will join at least 46 or 47 other states in creating a "rainy day" fund.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 29.6}

This bill proposes to establish a Budget Stabilization Fund. It will not cost the General Fund anything, now and into the future. The way the fund is established is to set the ending fund balance. The minimum ending fund balance must be at least 1% of each fiscal year's General Fund appropriation. This bill proposes to take the surplus above that, whatever that may be, and deposit it into this "rainy day" fund. Subjection 2 in Section 1 of the bill caps it at 10%.

The Legislature will establish this fund and the incoming monies, as he just described, takes place in that manner. It doesn't come from any other source except reserves above the ending fund balance.

He wondered what would happen to activate this money. Other states require different amounts of Legislative and Executive approval. In this case, because they have already delegated substantial authority to the Executive, the Executive is allowed, through existing law, to utilize this fund to offset budget shortfall.

The main issue here from a policy standpoint is whether or not they are going to continue to have arguments about whether or not the Coal Severance Trust Fund is, in fact, a "rainy day" fund or for the first time since its enactment in 1976 they are going to establish a true "rainy day" fund for that exact reason.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. KASTEN referred to New Section, Section 3, "The legislature may appropriate the funds in the budget stabilization account for any public purpose. Can we assume that would be for regular or special session?" **REP. WANZENRIED** said it would be for any time that the Legislature would be in session for appropriating these funds.

CHAIRMAN LEWIS said since the amount may not exceed 10% of the General Fund for the prior biennium, would **REP. WANZENRIED** think \$200 million is adequate as far as a reasonable "rainy day" fund. **REP. WANZENRIED** said if they were to put this in effect right now the General Fund appropriation for the current biennium is about \$2.8 billion so 10% of that would be \$280 million and would be capped at that. He would doubt very seriously they would ever get to that point because the Legislature would be able to access these funds to spend that balance down. There are a number of mechanisms available to begin funding this.

CHAIRMAN LEWIS said **REP. WANZENRIED** is suggesting that it would be preferable to borrow money from the surplus in the State Work Comp Fund, money that has been built up by contributions from employers and employees, to borrow that money, pay it back from the General Fund in the future. That would be preferable to taking it from the Coal Trust. **REP. WANZENRIED** said the difference in that approach would be if it was deemed by a majority of this Legislature, which he has no control over, the difference would be that they would actually commit to make a repayment with interest. He would prefer not to use a loan of any kind to start this fund, but simply allow the money to flow into as it becomes available.

REPS. SINRUD, FISHER to **REP. WANZENRIED** for further clarification and comments.

Closing by Sponsor:

REP. WANZENRIED closed the Hearing on HB 297.

EXECUTIVE ACTION ON HB 219

REP. BUZZAS said when this bill was heard, she asked for a legal opinion and she was told there would be a legal opinion prior to voting on it. **Jon Moe, Legislative Staffer**, said the Legal Counsel said that because the existing statute already sets the rent and sets it based upon the level of rent on the Capitol

Complex, he felt it had the authority to go ahead and set it at a different level which is what this bill does.

Motion/Vote: REP. BRUEGGEMAN moved that HB 219 BE TABLED. Motion carried 18-1 with REP. BUZZAS voting no.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 23.6}

ADJOURNMENT

Adjournment: 4:20 P.M.

REP. DAVE LEWIS, Chairman

MARY LOU SCHMITZ, Secretary

DL/MS

EXHIBIT (aph11aad)